MOTION FILED

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Nos. 94-1941 and 94-2107

IN THE

Supreme Court of the United States

OCTOBER TERM, 1995

UNITED STATES OF AMERICA,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA, *et al.*,
Respondents.

COMMONWEALTH OF VIRGINIA, *et al.*,
Cross-Petitioners,

v.

UNITED STATES OF AMERICA,
Cross-Respondent.

On Writs of Certiorari to the United States Court of Appeals for the Fourth Circuit

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MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF OF WOMEN'S SCHOOLS TOGETHER, INC., BOYS' SCHOOLS: AN INTERNATIONAL COALITION;

(Additional Amici Listed on Inside Front Cover)

IN SUPPORT OF RESPONDENTS, CROSS-PETITIONERS

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MOTION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE, WITHOUT OBJECTION BY THE PARTIES, PURSUANT TO RULE 29.2

Movants Women's Schools Together, Inc., et al. hereby seek leave of the Court to file their brief, amici curiae, lodged contemporaneously herewith, in accordance with Supreme Court Rule 29.2 for the following reasons:

1. Undersigned counsel was requested by amici to prepare an amicus brief to discuss the particular educational perspective of amici, which is different from that of the parties, and which, we believe, will be extremely useful to the Court in deciding this important case.

2. Counsel for amici was aware that certiorari was granted on October 5 and that briefs supporting cross-petitioners were due on December 15, but was unaware until late in the day on December 15 that the order granting certiorari suspended Rule 29.2 and required briefs actually to be filed and served by 3:00 p.m. on December 15, rather than being mailed on that date.

3. All parties have consented to the filing of this brief, amici curiae. The consent letters were filed with the Court prior to the filing deadline of 3:00 p.m. on Friday, December 15.

4. The brief was mailed by the printer to the Court on December 15, in accordance with Rule 29.2 and was served on counsel for all of the parties by mail on December 15.

5. Immediately upon learning of the shortened time requirements, late in the day on December 15, counsel called the Solicitor General, and the Solicitor General personally indicated that he had no objection to the filing of the brief on Monday, December 18, upon receipt by the Clerk, as if filed under Rule 29.2. Counsel for VMI also has consented to the filing of this brief, amici curiae, on December 18, as if filed under Rule 29.2.

6. In order to minimize any inconvenience to the two parties, a copy of the brief was sent by facsimile to each party at approximately 7:00 p.m. (CST) on Friday, December 15. A copy of the brief was also delivered to the Court at 8:25 p.m. (EST) on Friday, December 15, together with an explanatory letter from counsel.

7. A typewritten version of this motion, with a motion to dispense with the requirement for printing, was deliv-

ered to the Court on or about 11:25 a.m. on Monday, December 18, and date-stamped by the Clerk. The motion was delivered to the Court as soon as it arrived by overnight courier from St. Louis. Counsel for both parties were sent a copy of the motion, with first class postage prepaid, on Saturday, December 16, 1995.

8. The preparation of this brief required the expenditure of significant resources, and amici, many of whom are concerned educators who believe strongly in the benefits of single-sex education, should not be prejudiced by counsel's lack of awareness of the inapplicability of Rule 29.2 in this particular case.

Wherefore, amici respectfully pray that the Court grant this motion to file their brief, amici curiae, in accordance with Rule 29.2.

Respectfully submitted,

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